

Nancy Jane Woolley
61 South Bedford Road
Pound Ridge, New York 10576-2015

DOCKET FILE COPY ORIGINAL

October 28, 1997

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OCT 30 1997

Federal Communications Commission
Office of the Secretary
1919 M Street NW
Washington, D.C. 20554

Re: Reference No. MM
Docket No. 97-182

Dear Sir:

I am a councilwoman in the Town of Pound Ridge in Westchester County fifty miles north of New York City. I am writing to object to the FCC proposal to circumvent state and local controls over the placement of wireless communications facilities.

In complying with the Telecommunications Act of 1996 our town has worked cordially and cooperatively with cellular providers to locate appropriate, workable sites for wireless communications facilities. We have worked hard to locate sites we believe will cause as little disruption as possible to residential neighborhoods and will avoid delays that would be time-consuming and expensive for the companies seeking to provide service. Our efforts to comply with the law will have been in vain if there can be no local controls.

Our Town Board recently convened a meeting with providers in order to better understand their needs and to encourage co-location. They are a mix of cellular providers, PCS providers, pager companies and companies specializing in location search. They are: Sprint PCS; Bell Atlantic Mobile; AT&T Wireless Services; Nextel; Pagenet; Trott Communications and RETCOM. The town asked the companies to work together to test the sites we suggested to (1) grade the practicality of each site, (2) avoid costly duplication of effort and (3) see if co-location would be possible.

I am convinced that the wireless buildout process will move more smoothly if local government encourages the selection of sites that will be most acceptable to the public by minimizing disruption to neighborhoods and staying away from problematical sites, i.e. near schools, that cause an immediate public outcry, lengthy hearings and possibly lawsuits. People at the local level know their towns best and can find sites that can most easily be accepted by a community. Surely it is in the best interests of the providers to place these facilities where there will be the least objection and the smoothest and shortest course through the process.

This proposal probably came about because resistance and litigation have slowed the buildout process. Poorly advertised regulations ramming the uncontrolled and indiscriminate placement of cellular facilities down the throats of municipalities will surely cause a much greater outcry, as

021
NANCY JANE WOOLLEY
LEADERSHIP

Page Two
FCC Letter of October 28, 1997

well as a great deal of bad publicity for the FCC. You would do better to require a process such as our town is going through to convince Americans that compliance with the law is necessary, that it can be accomplished with relatively little negative impact, and that the resulting enhanced cellular service will be useful to them.

Please furnish me with materials so I can participate in the reply period.

Very truly yours,

A handwritten signature in cursive script, reading "Nancy Jane Woolley".

Nancy Jane Woolley
Councilwoman
Town of Pound Ridge

cc: Congresswoman Sue Kelly
Congresswoman Nita Lowey
Senator Daniel Moynihan
Senator Alphonse D'Amato
Governor George Pataki

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County of Henry

OCT 30 1997

FCC MAIL ROOM

P.O. BOX 7
KING'S MOUNTAIN ROAD
COLLINSVILLE, VIRGINIA 24078-0007

Board of Supervisors

JACK E. DALTON, CHAIRMAN
COLLINSVILLE DISTRICT

H.G. VAUGHN
RIDGEWAY DISTRICT

SAMUEL J. "SAM" PILSON
BLACKBERRY DISTRICT

TELEPHONE (540) 634-4601



SIDNEY A. CLOWER
COUNTY ADMINISTRATOR
October 28, 1997

Board of Supervisors

R.E. "MIKE" SEIDLE, JR., VICE CHAIRMAN
REED CREEK DISTRICT

DEBRA PARSONS BUCHANAN
HORSEPASTURE DISTRICT

PAULA M. BURNETTE
IRISWOOD DISTRICT

FAX (540) 634-4781

Docket # 97-182

Mr. William F. Caton, Acting Secretary
Office of the Secretary
Room 222
Federal Communications Commission
1919 M. Street, N.W.
Washington, DC 20554

Dear Mr. Caton:

Attached is a resolution adopted by the Henry County Board of Supervisors at their meeting on October 27, 1997, opposing efforts by the Federal Communications Commission to preempt local zoning of cellular, radio and television towers. The Board requests the FCC to reconsider this proposal and leave unaffected the authority of local governments to regulate zoning and construction matters.

Thank you for your consideration in this matter. Should you have any questions or require additional information, please feel free to give me a call.

Sincerely,

Benny Summerlin
Deputy County Administrator

/vg

Attachment

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FCC MAIL ROOM

*RESOLUTION OF THE
HENRY COUNTY BOARD OF SUPERVISORS*

WHEREAS, the Federal Communications Commission (FCC) has proposed new rules regarding construction of broadcast towers to facilitate implementation of new digital television technology; and

WHEREAS, under the proposal, local governments would be required to act on zoning and building permit requests related to such construction within 21 to 45 days, regardless of existing local ordinances and regulations; and

WHEREAS, even acting within those time constraints, the FCC would have authority to overrule local requirements unless a local government could prove those requirements were necessary to meet health or safety considerations; and

WHEREAS, an affected party who is displeased with a local decision could appeal directly to the FCC, rather than utilizing the court system as is the current practice; and

WHEREAS, the proposed rules would usurp the authority of the local government with regard to aesthetics, environmental, and safety, all of which are appropriate for consideration at the local - not the federal - level; and

WHEREAS, the Board of Supervisors supports creation and implementation of new technology, but believes such developments should not be stimulated at the expense of localities and their residents;

NOW, THEREFORE, BE IT RESOLVED, this 27th day of October, 1997, that the Henry County Board of Supervisors does hereby urge the Federal Communications Commission to reconsider this proposal and leave unaffected the authority of local governments to regulate matters of zoning and building construction.


Jack Dalton, Chairman



OKLAHOMA AERONAUTICS COMMISSION

DIVISION OF

OKLAHOMA DEPARTMENT OF TRANSPORTATION

200 NE 21st STREET

OKLAHOMA CITY, OK 73105-3204

(405) 521-2377

(405) 521-2379 (FAX)

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October 29, 1997

FCC Docket Number 97-18

Office of the Secretary

Federal Communications Commission

Washington D.C. 20554

NO MAIL ROOM

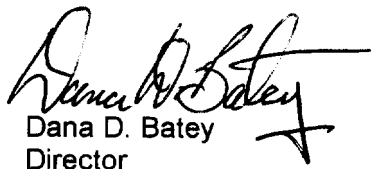
Dear Sir/Madam:

The Oklahoma Aeronautics Commission objects to the preemption of state and local authority to regulate the placement or construction of any broadcast transmission facility as set forth in the proposed rule making in FCC Docket Number 97-18.

The Oklahoma Municipal Airports Act (O.S. Title 3, Section 102) prohibits the placement or construction of any structure or object of natural growth which penetrates navigable airspace as defined by Federal Aviation Regulation Part 77. In prudent pursuit of implementation, it has been a long and arduous process of putting in place a public process by which state and local government can protect public assets and maintain a safe environment for the flying public.

By state law, it is the charge of the Oklahoma Aeronautics Commission to encourage, foster and assist in the development of a safe aviation system for the state of Oklahoma. In this, safety is the primary consideration. Your proposal potentially removes aviation safety as a factor in siting transmission facilities and conceivably could overturn years of effort expended by federal, state and local officials in the pursuit of protecting our system of airports. We are concerned that proliferation of towers/antennas across the nation has already permitted encroachment on what would otherwise be navigable airspace. This proposal has the potential of allowing the creation of additional hazards to flight safety and could have a significantly negative impact on our ability to protect airports and navigational aids from the construction of hazardous obstructions to air navigation. In short, we strongly object to this proposal.

Respectfully,


Dana D. Batey
Director

DDB:jls

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Page 2
Oklahoma Aeronautics Commission
200 NE 21st Street
Oklahoma City, OK 73105-3204

cc: Aeronautics Commissioners
Neal McCaleb, Secretary of Transportation
Senator Don Nickles
Senator James Inhofe
Representative Steve Largent
Representative Tom Coburn
Representative Frank Lucas
Representative J.C. Watts
Representative Ernest Istook
Representative Wes Watkins
Lloyd Benson, Oklahoma Speaker of House
Stratton Taylor, Oklahoma President Pro Tempore
Oklahoma Airport Operators Association
National Association of State Aviation Officials
American Association of Airport Executives
Aircraft Owners and Pilots Association

From: "Eric Stevens" <ericstev@vermontel.com>
To: "FCC" <fccinfo@fcc.gov>
Date: 10/26/97 10:57pm
Subject: MM Docket No. 97-182, Comments on broadcast tower siting

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DOCKET FILE COPY ORIGINAL
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

28 October 1997

In the matter of:

Comments on Preemption of State and Local
Zoning and Land Use Restrictions on the Siting,
Placement and construction of Broadcast
Station Transmission Facilities;
MM Docket No. 97-182

Comments of:
Eric C. Stevens
HCR Box 51
Grafton, VT 05146
tel. (802)843-2568
e-mail: ericstev@vermontel

I am a citizen of the State of Vermont and am sensitive to the intent and force of your proposed regulation. You arm broadcast facility developers with an authority to ignore all local and state planning and zoning regulations with the presumption that digital TV is the highest and best purpose that our landscape can be used for. You render local, regional, and particularly State planning laws, in the case of our Act 250, which are intended to weigh the merits of each case against our public standards, useless in the face of imperial federal power. I am not a basher of technology, and am interested in becoming a customer of digital TV, but not at the inevitable price that your regulation will make my environment pay for it.

Vermont has a wrinkled topography which makes line of sight radio broadcasts from land based antennas difficult. This has resulted in many of our mountain peaks having towers and blinking lights (to satisfy the FAA) because this has been the cheapest way to gain signal coverage. Towers can be sited within valleys but play to a much smaller audience. Alternatively, cable transmission can be used to distribute signals along existing transportation and utility corridors. These methods do not impact the aesthetics or the animal habitat of our high ridges and mountain tops, but they are more expensive. When a new tower application comes under Act 250 review a whole host of existing plans, (local, regional, and state) are considered when balancing the benefit from the tower against the harm that it will do. The broadcast tower developer can now, with your regulation, ignore all of these carefully considered steps and put his tower where it is cheapest, on the mountain top, all with the power of a Federal Marshall at his side.

We have local government in which the voice of a single individual can still be heard. My local government is comprised of volunteers who still believe in the civic duty to try to operate a citizen government. And yes we do have democracy to a degree that the wire wrapped and asphalt paved resident of urban America would not believe. Once a year we hold Town Meeting in which any resident can speak about the merits of any issue on the Town Warrant, and every residents vote is tallied to decide them. The rights and responsibilities of citizenship are direct. We are used to making up our own minds about issues that affect us and resent the imposition of governmental mandates. You may be legal and powerful in setting forth this regulation, but if many mountain tops get sheared and sprout big steel spikes with blinking lights, then you will be regarded as highly as King George was when he imposed the tea tax.

Respectfully,
Eric C. Stevens
HCR Box 51
Grafton, VT 05146

28 October 1997

Enc. of Copies rec'd
10/30/97

CC:

"Representative Bernie Sanders" <bernie@mail.house....

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MM 97-

Chesapeake
VIRGINIA

City of Chesapeake

Office of the City Manager
Post Office Box 15225
Chesapeake, Virginia 23328-5225
(757) 382-6166

October 29, 1997

Mr. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
Washington, D. C. 20554

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OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Caton:

Please accept these comments from the City of Chesapeake, Virginia concerning the Federal Communications Commission's Notice of Proposed Rule Making Concerning the Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Facilities. Should you have any questions concerning these comments or wish additional information, please do not hesitate to contact us.

Sincerely,

C. V. Coffee, Jr.

Clarence V. Coffee
Deputy City Manager

enclosure
CVC/ard

C: The Honorable Mayor and City Council
The Honorable John W. Warner
The Honorable Charles S. Robb
The Honorable Norman Sisisky
The Honorable Thomas J. Bliley, Jr.

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October 29, 1997

**SUBJECT: FCC PROPOSED RULE MAKING CONCERNING THE PREEMPTION OF
STATE AND LOCAL ZONING FOR DIGITAL TELEVISION TOWERS AND EQUIPMENT
(MM DOCKET NO. 97-182)**

On August 18, 1997, the Federal Communications Commission released a "Notice of Proposed Rule Making in the Matter of Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities." The City of Chesapeake did not receive direct distribution and was made aware of the Notice on October 20, 1997 by another Virginia locality. Although the City has not had a great deal of time to prepare its comments, this issue is of such critical concern that it does not wish to let the opportunity pass without commenting on this proposal to circumvent local authority over land-use.

The City of Chesapeake has very serious concerns regarding several of the proposed FCC rules:

1. **Assumption and Fact.** The FCC has assumed that state and local zoning and land use ordinances would present "obstacles" to the rapid implementation of digital television (DTV). The assumption and Notice have resulted from a request by the Industry to ensure that the towers could be placed anywhere and at any height without interference by local ordinances. It appears that the Industry is attempting to avoid conformance with any local regulations and is unconcerned with community impacts. The Telecommunications Act of 1996 guarantees the expeditious and fair processing of these applications without undermining local authority; therefore, it appears the Industry wishes to totally avoid compliance with local ordinances.
2. **Timing.** Although the Congress has provided ample time for the implementation of DTV service, it would have local processing reduced to 45 days. Under Chesapeake's Zoning Ordinance, applications of this nature can be processed within 90 days. The reduced 45 day processing time would not provide for an adequate analysis nor would it provide adequate time for legal advertising to ensure citizen involvement. It further does not account for time delays resulting from the applicant's filing of incomplete applications. The City of Chesapeake values its citizens and encourages their involvement in this review process.
3. **Collocation.** Like most localities, Chesapeake requires collocation whenever feasible, in order to prevent a proliferation of towers within the City. Collocation is a method of managing the number of towers in an area and facilitates cooperation among providers. This ruling would serve to discourage collocation and encourage the proliferation of unnecessary towers.

4. **Airports.** Included in its 353 square miles, the City of Chesapeake hosts one military airport, Naval Auxiliary Landing Field Fentress which is currently under expansion, and two private airports. One of the private airports has received approval for expansion. We have discovered that, while the FAA is presumed to have total authority over tower lighting and painting, the FAA rules governing these points are guidelines. The FAA's record on disputed towers sites reveals that very few sites are actually denied by the FAA for any reason.
5. **Reasons for Denial.** Rule Number 8 would preempt all state and local land use, building and similar laws that would impair the placement or construction of DTV towers unless that authority can demonstrate that the regulation is a clearly defined and expressly stated health or safety issue. Since the tower would be exempt from obtaining building permits and actual construction details would not be submitted for review, radio frequency emissions are not permitted to be a consideration by the Act of 1996, and interference, lighting and marking would be removed from consideration, what issues under the narrow heading of health and safety would provide reasons for a denial? The proposed Rule would strip local authority from any decisions based on local law and from any consideration of neighborhood compatibility.

The City of Chesapeake supports new technology. Our Zoning Ordinance was recently revised with great support and input from the Telecommunications Industry. The advancement of this Industry should be done, however, with the understanding that there will be no denigration of the authority of the locally elected government and an undermining of the citizens' ability to provide input in the decision making process. We believe that this attempt to prevent local land use control is unnecessary and would be harmful to the citizens of this community. The restrictions of this proposed FCC rule should not be implemented.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 29, 1997

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20510

~~RE: Federal Communications Commission Docket No. 97-182~~

The San Benito County Planning Department has recently become aware of an FCC rule making (Docket No. 97-182) which would severely restrict our zoning authority over the siting and construction of television and radio broadcast towers located in our county. We would like to take this opportunity to express our strong opposition to this rule making.

Telecommunications towers are proliferating at an unprecedented rate and it is imperative to preserve some degree of local control over tower siting decisions. While the County recognizes the need for timely and realistic guidelines for the processing of tower construction requests, it is unconscionable to remove local governments Constitutional right to employ "police power" to the benefit of the Health, Safety and General Welfare. Communities must be able to limit construction in areas which are environmentally sensitive; to prevent a significant negative impact on residential property values; to mitigate the aesthetic impact of such towers and to address local concerns.

The proposed FCC requirement that local governments act on all zoning and building permit requests for broadcast tower construction within 21 to 45 days allows insufficient time to implement current County procedures. Additionally, the FCC proposal to remove the appeal process from the jurisdiction of the local, state or federal Courts and to allow the FCC itself to decide industry appeals of local government decisions is simply ludicrous and smacks of Federal 'cronyism'.

Sincerely,

Rob Mendiola
Planning Director

RM/jt

CC: U. S. Representative Sam Farr
U. S. Senator Barbara Boxer
U. S. Senator Dianne Feinstein

File of 2, 10, 100, 1000
1000/1000

COUNTY ADMINISTRATIVE OFFICE

RICHARD H. INMAN, SR.
COUNTY ADMINISTRATIVE OFFICER



COUNTY ADMINISTRATION CENTER
940 W. MAIN STREET, SUITE 208
EL CENTRO, CA 92243-2875
PHONE: (760) 339-4290
FAX: (760) 339-4296
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EMAIL: richinman@aol.com
acaorjb@intergate.icoe.k12.ca.us

October 29, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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OCT 30 1997

FCC MAIL ROOM

97-182

Dear Mr. Secretary:

This is in response to your Request for Comments in the matter of preemption of state and local zoning and land use restrictions on the siting, placement and construction of broadcast station transmission facilities.

It is my view that the proposed rulemaking would severely undermine and usurp the constitutional authority and responsibility of local government to act in the best interests of its citizens in establishing local zoning standards.

The time frames set forth in the proposed rulemaking run contrary to the best interests of our communities in that they do not allow adequate time for due process, including the opportunity for all concerned citizens to be heard.

The proposed elimination of aesthetics and land use considerations as justification for denial of zoning applications is highly undesirable. I believe that aesthetics, along with environmental issues, property rights, and the health and welfare of the people are all concerns that should be addressed as part of a prudent decision making process.

I see no reason to view local government's exercise of its traditional responsibilities with respect to zoning and land use as being an obstruction to progress. On the contrary, local government officials who are most closely attuned to those factors best facilitate orderly progress in keeping with the needs, wishes and requirement of local citizens.

Respectfully,

Richard H. Inman, Sr.
County Administrative Officer

CC: U.S. Senator Barbara Boxer
U.S. Senator Diane Feinstein
U.S. Representative Duncan Hunter
California Senator David Kelley
California Assemblyman Jim Battin
Each Member of the County of Imperial Board of Supervisors.

Winchester-Clark County Airport Board

1500 JONES NURSERY ROAD
LEXINGTON, KENTUCKY 40509-9738
(606) 527-3584

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October 29, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Office of the Secretary
1919 M Street, N.W.
Washington, DC 20554

Reference: Proposed Rule Making on Towers

Dear Mr. Caton:

The Winchester-Clark County Airport Board (WCCA) strongly opposes this ruling making future construction of antenna towers exempt from state and local zoning. Apart from the safety and logistical issues involved, this ruling would create hardships on locating airports in any area.

The WCCA encourages you to deny this proposal. If this proposal is adopted by the FCC, the Kentucky Airport Zoning Commission will have little or no ability to protect the airspace around their airports.

Sincerely yours,


Harkness Edwards, III

2450

CC:

Mr. Jesse Sams
Mayor Gene Kincaid
Dr. Perry Brown
Mr. Robert Early
Mr. Steve Adams
Mr. Richard Gamble

10-30-97
10-30-97

October 29, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20544

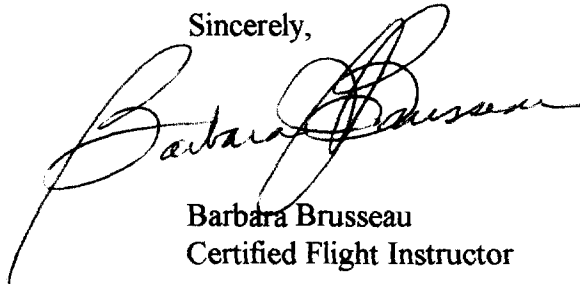
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OCT 30 1997

Re: Comments on Notice of Proposed Rule Making; MM Docket No. 97-182

Dear Mr. Secretary:

It would be a mistake for the FCC to assume preemptive powers over the states and units of local government with regard to the regulation of communication tower location and height. Not only would you likely face defeat before the federal appellate court if this action were taken, but the FCC could cause serious aviation safety problems. The FAA will not place limits on tower height or placement; so, it is up to the local and state airport authorities to regulate these structures. The public demands that there be no impediments to aviation safety. These demands are louder and of greater urgency than the agreements of the digital television and other broadcasters that they be allowed to place their towers wherever it may be convenient.

Sincerely,



Barbara Brusseau
Certified Flight Instructor



MARSHALL COUNTY AIRPORT

OCT 30 1997

P.O. BOX 38
LACON, ILLINOIS 61540

October 29, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20544

Re: Comments on Notice of Proposed Rule Making; MM Docket No. 97-182

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Sincerely,

Neil Pobanz
Manager, Marshall County Airport

AIRPORT BOARD

Charles L. Allen, President
Robert Jesse, Secretary-Treasurer
Roy Seibold
Art Blase
Bill McNight

AIRPORT MANAGER

Lacon Aero Service, Inc.
Phone 309/246-2870

FIXED BASE OPERATOR

Lacon Aero Service, Inc.
Chad Pobanz
Bill Doyle
Neil Pobanz
Phone 309/246-3700

LACON AERO SERVICE, INC. DOCKET FILE COPY ORIGINAL
MARSHALL COUNTY AIRPORT
P.O. Box 38
Lacon, Illinois 61540
309/246-3700

October 29, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20544

Re: Comments on Notice of Proposed Rule Making; MM Docket No. 97-182

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Sincerely,

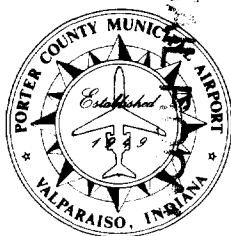
William J. Doyle

William Doyle
President, Lacon Aero Service Inc.

10/30/97
11/1/97

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PORTER COUNTY MUNICIPAL AIRPORT

4207 MURVHILL ROAD
VALPARAISO, IN 46383

(219) 462-6508

MANAGED BY
PORTER COUNTY MUNICIPAL
AIRPORT AUTHORITY

October 28, 1997

Federal Communications Commission (FCC)
FCC Dockets Branch
Room 239
Docket No. 97-296
1919 M Street, NW
Washington, DC 20554

97-182

To whom it may concern:

This correspondence is in opposition to the FCC's Notice Of Proposed Rule Making (NPRM) entitled Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Transmission Facilities. This NPRM proposed to grant the FCC authority to preempt state and local zoning laws if the Agency determines they interfere with the accelerated implementation schedule and installation that the FCC has set for Digital Television (DTV).

While television is an important entertainment, education, and information medium, and while DTV will enhance that medium, this NPRM represents a possible action on the part of the FCC to compromise not only the public's safety, but rules in place that has allowed the good and systematic development of the communications industry as it exists today. A review of the NPRM on the basis of other federal, state, and local agency's authority under existing rules, and with the new time requirements for action on the part of these agencies to the extent they do not cause "unreasonable delay" to the DTV roll-out and other ongoing broadcast transmission facilities construction, indicates that the NPRM will greatly limit or even negate any authority that the Federal Aviation Administration (FAA), Indiana Department of Transportation - Aeronautics Section (INDOT) and our local zoning boards have to properly exercise control over such development.

While the proposed rule will require compliance with FAA lighting requirements, no further determination of potential hazard to aviation is contained in the NPRM as required in the circulation and response afford under the present rules in place through Federal Aviation Regulation (FAR) Part 77. Also, many communities nationwide use zoning laws to prevent construction of tall structures, including building with accessory structures such as antennae, near an airport. There is no recognition in the proposal that often is the only means to prohibit construction of obstacles near airports, and that are more reasonably controlled under the authority of state and local entities familiar with those localities.

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Our state's Aeronautic Section is in opposition to this proposal, and my local Airport Authority concurs with the Aeronautics Section's position. Any proposal to usurp FAA authority in this review, or local zoning laws near airports, compromises the safety of the nation's entire air transportation system. Without specific procedures in place to protect the safety of aviation operations near airports, the FCC jeopardizes the FAA's ability to effectively manage traffic at the nation's airports, and deteriorates the ability of the aviation industry and the FAA to provide safe air transportation. I would encourage the FCC to adhere to all zoning laws enacted to prohibit construction of these structures near airports, or other areas determined detrimental on local stand points.

Sincerely,

PORTER COUNTY MUNICIPAL
AIRPORT AUTHORITY

A handwritten signature in black ink, appearing to read "Kyle J. Kuebler", written over the printed name and title.

Kyle J. Kuebler
Airport Manager

KJK/aa

CC: INDOT - Aeronautics Section

LINDA A. SOWA
Public Utilities Commissioner



Donald L. Plusquellic
Mayor

PUBLIC UTILITIES COMMISSION

146 S. High St., Suite 900
Akron, OH 44308
Phone: (330) 375-2590
FAX: (330) 375-2072

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OCT 30 1997

October 29, 1997

Office of the Secretary
Federal Communications Commission
Washington, DC 20554

RE: In the Matter of Preemption of State and Local Zoning and Land Use Restrictions on the
Siting, Placement, and Construction of Broadcast Station Transmission Facilities
MM Docket #97-182

Dear Sirs:

The City of Akron opposes the preemption of State and Local Zoning and Land Use Restrictions by the Federal Communications Commission. The City of Akron has aggressively worked with PCS carriers to assure their speedy entry into the Akron market in a manner not detrimental to the standards of our community. We have successfully processed site requests by AT&T, Ameritech, AirTouch, GTE, Sprint and Nextel on their own timetables. We believe that the local governments are best suited to accomplish the same for digital television broadcast towers.

The issues raised by the National Broadcasters ("NAB") in their petition do not outweigh the interests of the general public in exercising zoning and land use regulations to protect and promote the economic and community development of their communities. The fact that there are existing broadcast towers needing modification or replacement implies a pre-existing community acceptance of these locations. The NAB should bear the burden of proof that communities will use local zoning to prevent necessary modifications or replacement before contemplating any broad exemption powers. Local communities experience with PCS carriers is that there is often more than one answer to a siting need, and that the input of the local community and cooperation of RF engineers leads to an acceptable solution for all parties. The input of local communities should not be removed from the siting equation for digital TV towers.

Additionally, the petitioners' proposed timetables for local review and approval are arbitrary, and undoubtedly a standard that the FCC would not adopt for its own review and approval of such matters. The petitioners also seek to remove from local consideration any factor except health or safety, which is also not to include the health effects of RF emissions, interference with telecommunications signals and consumer electronics devices, and tower lighting and marking.


City of Akron rec'd
OCT 30 1997

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The basis of local zoning and land use regulations is the protection of the health, safety and welfare of the general public. We also need not apologize for promoting community aesthetics, as this is the basis for preserving and enhancing our economic health. Businesses, as well as families, invest in communities that offer safe, attractive neighborhoods and industrial parks, good schools, and cultural and recreational facilities. These assets are developed and protected by zoning and land use controls. We would pose that the FCC should adopt policies and timetables for the implementation of digital TV that promote the use of existing tower locations to the greatest extent possible, thereby negating any need to intrude on the zoning and land use prerogatives of local communities.

We sincerely hope that the Federal Communications Commission considers the well-being of the of cities, villages and townships, and rejects the Petitioners' request for preemption of local zoning and land use regulations.

Yours Truly,

A handwritten signature in cursive script, reading "Linda A. Sowa".

Linda A. Sowa
Public Utilities Commissioner
City of Akron, OH

cc: Donald L. Plusquellic, Mayor
City of Akron, OH



State of New Jersey

THE PINELANDS COMMISSION

PO Box 7

NEW LISBON NJ 08064

(609) 894-9342

CHRISTINE TODD WHITMAN
Governor

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October 29, 1997

William F. Caton
Secretary, Federal Communications Commission
Washington, D.C. 20554

RE: MM Docket No. 97-182
Preemption of State and Local Zoning
and Land Use Restrictions on Siting,
Placement and Construction of
Broadcast Station Transmission Facilities

Dear Mr. Caton:

I am writing with regard to the proposal by the Federal Communications Commission to preempt state and local zoning and land use restrictions on the siting, placement and construction of broadcast station transmission facilities (MM Docket No. 97-182). We are concerned that the proposal fails to recognize areas where federal and state partnerships were created, pursuant to federal legislation, in recognition of such areas' national and international significance. In 1978, Congress determined that there was a national interest in preserving the natural and cultural resources of the Pinelands of New Jersey, and designated the region as The Pinelands National Reserve (P.L. 95-625). This step was taken "to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area" and "to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area." The statute required that a Comprehensive Management Plan (CMP) be developed by the State of New Jersey, and that the plan and any subsequent amendments be approved by the Secretary of the Interior. In response to the federal statute, the State of New Jersey enacted "The Pinelands Protection Act in 1979 which made all local master plans and zoning ordinances subject to the regulatory policies of the CMP.

The Comprehensive Management Plan for the Pinelands National Reserve was approved by the Secretary of the Interior in 1981. It includes an assessment of "scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources." As a result of the assessment performed by the Pinelands



The Pinelands — Our Country's First National Reserve
and an International Biosphere Reserve

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Commission, the CMP contains a height limitation of 35 feet for any structures, including radio and television transmission and other communication facilities, which are not accessory to an otherwise permitted use, in areas of the region where future growth is severely restricted. Such facilities are currently permitted in locations of the region where less restrictive growth management policies apply under the plan. These regulatory policies were approved by the Secretary of the Interior, as part of his approval of the CMP required under Section 471i.(g) of Section 502 of The Omnibus National Parks and Recreation Act of 1978. As envisioned by the federal and state Pinelands legislation, this standard has been incorporated into the land use ordinances of 51 of the 53 municipalities and the 7 counties which comprise local government in the Pinelands National Reserve. The Pinelands Commission administers the CMP, and ensures that local ordinances are implemented in a manner consistent with the federally approved plan. The Commission is the federally designated planning entity for the Pinelands National Reserve.

For regions such as the Pinelands National Reserve, we believe it would be inappropriate to preempt the state and local zoning and land use ordinances adopted in response to federal legislation. To do so would jeopardize the continued protection of these areas as Congress intended and would fail to recognize longstanding arrangements between the federal and state government concerning the regulatory authority of these lands. Below, for your consideration, is an amendment to the petitioners' rule proposal that we believe would better address these issues in the few regions of the United States that are subject to congressional findings that the resources of same merit national interest.

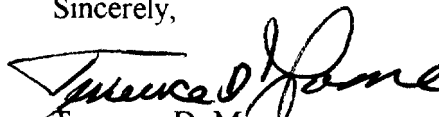
Section (b)(2):

"Any state or local land-use, building, or similar law, rule or regulation that impairs the ability of federally authorized radio or television operators to place, construct or modify broadcast transmission facilities, is preempted unless the promulgating authority can demonstrate that such regulation is the result of federal legislation or is reasonable in relation to:

- (I) a clearly defined and expressly state health or safety objective other than one related to those set forth in Section (1)(I)-(iii) above; and
- (ii) the federal interest in (I) allowing federally authorized broadcast operators to construct broadcast transmission facilities in order to render their service to the public; and (ii) fair and effective competition among competing electronic media."

I thank you in advance for your consideration of our concerns. If you have any questions, please do not hesitate to contact me at the above number.

Sincerely,



Terrence D. Moore
Executive Director



National Agricultural Aviation Association

October 30, 1997

Federal Communications Commission
FCC Dockets Branch (Room 239)
1919 M Street, N.W.
Washington, D.C. 20037

Re: Proposed Rule FCC 97-296

To Whom It May Concern:

The National Agricultural Aviation Association (NAAA) is the national trade association representing commercial, aerial applicators of agricultural inputs and pest control products. The majority of NAAA's 1,255 members are licensed as commercial applicators who use aircraft to enhance food and fiber production, protect forestry, and control health-threatening pests.

Our Association opposes proposed rule FCC 97-296 that would preempt state and local zoning and land use restrictions on the siting, placement and construction of broadcast transmission facilities because of the potentially detrimental effects the rule may have on agricultural aviation safety and food and fiber production in the U.S.

The operation of agricultural aircraft in applying agricultural inputs to crops is a complex exercise requiring skill and the utmost concentration. These pilots fly at low altitudes at high speeds while simultaneously applying product. U.S. agricultural pilots perform these complex operations with an exceptional rate of safety during busy crop-growing seasons while flying low to the ground where concentration is needed to stay clear from trees, towers, wires and other low altitude obstacles. To effectively fly in these conditions, agricultural pilots train extensively. If rules on the zoning of broadcast towers are modified as called for in proposed rule FCC 97-296 and lead to broadcast tower placements that significantly alter agricultural aircraft flight paths this could detrimentally effect our industry's excellent safety record.

Our industry believes that Federal rules pertaining to the construction of broadcast towers already provide few protections for the safety of agricultural pilots (details of tower construction affecting the agricultural aviation industry are outlined in the enclosed article entitled "Towers" from the August/September 1995 issue of Agricultural Aviation). Federal Air Regulations (FAR) Part 77 require a sponsor planning to construct a broadcast tower 200 feet or greater to apply to the Federal Communications

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Commission. The applications also are routinely reviewed by the Federal Aviation Administration to determine potential flight hazard and determine if the tower site will be a factor in aviation safety. Many agricultural aviation operations are on private use airports and are not provided the same protections by the FAA. In many instances towers have been constructed dangerously close to the landing paths of private airports (see enclosure). This is a problem for any airport, but even more of a concern for agricultural aviators, coming and going all day at lower altitudes than the average passenger plane. This year FAA's Safety Analysis Branch Office of Accident Investigation performed an analysis of agricultural aircraft safety. The study found that between the years 1989-1995, six agricultural aviation accidents occurred from collisions with objects, such as trees, wires, towers, etc. Furthermore, in Arkansas earlier this year an aerial applicator lost his life by colliding with a broadcast tower.

Currently, the only course of action available to private airport owners to prevent encroachment into airspace critical for safe operation is from their local zoning committees, which has the sole authority to protect airspace through local zoning laws. Proposed rule FCC 97-296 compromises this protection and the protection of agricultural aviation safety. FCC 97-296, if promulgated, will mandate that state and local government zoning agencies have short and set time periods to review applications for tower construction within their jurisdiction and enable the FCC to preempt a local government's decision not to allow tower construction. It is important that local zoning authorities have the sole authority and as much time as they deem necessary to conduct a thorough review of the effect a proposed broadcast tower will have on the local area. This will make available sufficient time for agricultural aviation operations to be informed of a potential safety threat and share their comments to the zoning authorities.

Moreover, without wise placement of broadcast towers in agricultural areas farmers could be at risk of losing important aerial application services performed on their cropland because towers sited directly in the flight paths of aerial applicators' private use airports could literally shut-down that applicators' businesses. This would detrimentally effect the only method farmers have available to them when the time comes to apply crop protection chemicals, fertilizers and seeds to foster crop growth. Aerial application is the fastest method available in applying these agricultural outputs, it is also the only service that can be used if agricultural soil is too moist for ground rigs to enter a field. Furthermore, aerial application allows farmers greater yields because crops can be grown without forming wheel rows for ground rigs to enter and apply outputs; instead the entire field can be utilized to grow crops, which is the most efficient and environmentally sound method. Promulgation of proposed rule FCC 97-296 may prevent farmers enough time to become informed and comment to their local zoning authority about prospective broadcast tower construction that may jeopardizes the ability for aerial application services to be provided to their crops, hence threatening their livelihood.